

ZONING BOARD OF APPEALS
TOWN OF CHESTER ~ WARREN COUNTY

MINUTES OF MEETING ~ SEPTEMBER 25, 2007

ATTENDANCE: Mary Jane Dower, Ken Marcheselli, Elwood Findholt, Sam Sewall, and Secretary Pat Smith. Also in attendance, Town Counsel Mike Hill, and Zoning Administrator Walt Tennyson. Absent Was Liz Morris.

Chairman Marcheselli recused himself at the outset, due to present and previous dealings with both Mr. and Ms. Redmond.

Co-chair, Mary Jane Dower re-opened and resumed the public hearing at 7:04 p.m., on application #379-V for Charles W. Redmond, seeking relief from the required setbacks as defined in Section 4.03 of the Town of Chester Zoning Local Law, in order to relocate a sign at 6229 State Route 9, tax map parcel #104.14-1-44.31.

Given the floor, Mr. Redmond presented the Board with a series of letters, the first dated 7/24/07, basically stating his position, (which he also read)*, the second, also dated 7/24/07, making requests of the Board, and the third a copy of a letter he had written to Mr. Tennyson on August 14th, 2007. They have been entered into the file as part of the project record.

Mr. Redmond had stated, in the reading of his first letter: "...Where the public may be present to observe as non-participants in the hearing, as this is not a public meeting, but rather a hearing open to the public to witness." He continued: "I believe that my above stated perception to be correct and if not, I would ask that you advise me as to wherein I am incorrect."

Attorney Hill then offered to correct a statement made by Mr. Redmond, in that "If I understand correctly, your perception is that the public can be present to observe as non-participants in the hearing, as this is not a public meeting, but rather a hearing open to the public to witness. Actually, this *is* a public hearing where the public will be allowed to comment on your application."

Redmond: "To the Board."

Mr. Hill: "To the Board, correct."

The second letter he submitted, he asked that the queries he presented be answered in writing. The Board looked them over, and Mr. Hill advised that the board could answer in writing if they wished to, or ask Counsel to do so. He added that he was looking it over to see if any of the questions might need to be answered before review of the application. Discussion on preserving the tapes, which are not a transcript of the meeting, but are reviewed by the Secretary in the preparation of the Minutes. Mr. Hill felt that these matters could be dealt with at a later time. Redmond then presented the Board with the letter he had sent to Mr. Tennyson in August, defining his position.

The Board looked over the papers, and Mrs. Dower then stated that the issues requested in writing could be dealt with at a later time.

Redmond then spoke: "I believe there's been some confusion as to the application of the Zoning Law, and I believe that, if I understand correctly, that you're viewing ...if you turn to page 60 of the Zoning Ordinance, which is Article 7, pertaining to signs...I'm referring to paragraph b: *no more than two business signs may be erected or maintained advertising or otherwise relating to a single business.* Now there's been some discussion as to whether or not I should be allowed to have Red Mt. Real Estate sign on the front of the building, which I've applied for, and got a permit for, and it relates to that business, as I've explained before, Red Mt. Real Estate is licensed by NY State, required, not permitted, **but required** to have a sign up, and it **is** the rental agent for Mt. Storage. Your law says *related*. That is a related matter, so it is an allowed sign. Number 2, any free-standing signs, including posts, shall be located on private property, setback from the street of 5 feet. Now, this is the controlling section. At least my Attorney says it is, he's reviewed this, David Penkowski who deals in Corporate Law, and does a lot of Zoning Law. He says you cannot refer to, and I think the mistake here has come when you refer to a structure. If you go to page 65, paragraph 'o': *for the purpose of Local Law, this article, a sign is considered a structure and subject to the provisions of Section 9.* Now when you turn to Section 9 on page 86, what they're referring to, for the purpose of a non-conforming use, it's a structure. For the purpose of setbacks, section 7 clearly states, the setbacks are 5 feet from the property line on the front. And when there is no setback determined on the sideline, they can be placed as close to that sideline as desired. (Redmond opinion). That section **clearly** controls the setbacks for a sign. When you refer to the sign being a structure, **clearly** it's stated on page 65, Article 9. Article 9 does not have anything to do with Article 7 and has everything to do with a non-conforming use. And a non-conforming use is, if you go to paragraph b: *no non-conforming structure shall be enlarged, expanded, extended, increased in bulk or moved.* Therein is our argument before this board. Why I applied for a variance is because I moved the sign."

He continues: "So, the only thing contested here, really, is, I am allowed, by this law, to have 2 signs relating to the same business. As a rental agent, certainly Red Mt. Real Estate is a related business, it is the sole renter of Mt. Storage, and, where the variance that you have to decide today is, that I moved the sign. I haven't increased it in size, in bulk, or anything. And when I moved it, I was very careful to move it from one side of the lot, 5 foot off the property line, 12 feet back from the front line. It's moved exactly on the other side 5 foot back from the property line, 12 feet off the front line. So, I mean, I think it's pretty clear, that what I'm requesting is allowed under the law. Certainly, if you look there...then the signs...your law says when all applicable, try to keep everything in uniformity. If you can go down there and look, you'll see" (all the neighboring) "signs are in line. I'm in compliance with the law. The only thing, I believe, really, that should be considered is that I moved the sign. Nothing else. I've moved the sign. And basically, it's as simple as that. If I can answer any questions, I certainly will. And just another point, if you say that a new sign permit was needed because I removed the sign, I would like a determination, or, your understanding is when does removal occur? Immediately when you take the sign down? I was told by the Zoning Administrator, and

certainly as a police officer for 29 years, when a person in authority figure makes a suggestion, that's construed to be an order."

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"And when he says I think it's a good idea to keep the sign down until after the hearing, that's considered a direction from the authority figure. And I believe I've been in compliance with the authority figure at every turn. Even when I did not believe I was required to submit a new application for a sign permit, I still did it. At every juncture, I have tried to be in full and total compliance. And, I have done nothing different than multiple things that have been done in this Town. I don't want to make a huge issue of this. I have to say that I'm committed to going forward if we cannot resolve this tonight. And I hope we can. I believe it's a simple issue. I believe I've fully pointed out where maybe some confusion has been had, and I think it's pretty clear. Thank you."

Mr. Findholt queried: " Mr. Redmond, I'm curious as to why you found it necessary to move your sign from the south to the north."

Redmond: "Okay. The reason I did that was, to provide additional parking on that side. And also, it was not as...once I built the office on, the sign was there before I built the office. There was less room between the sign and the office and less convenient to drive through there. It was tough when you removed the snow, but basically, I wanted the parking on the side, you know, so people could come and go in front of the building. And basically, that's, once again, to try and be in compliance with the zoning laws, for additional parking."

Neither Mr. Hill nor the Board had any questions of the applicant, the meeting was then opened up to the public by Mrs. Dower.

Ms. June Maxam asked to be heard, and requested Mr. Tennyson make a clarification of whether there was a permit issued for the Red Mt. Real Estate sign. Mr. Tennyson responded "No. I have an application, that's all."

Ms. Redmond presented some issues from a letter that she had written for the June meeting, and presented some pictures to the board that she had taken in conjunction with her writing.

She stated that all we had been hearing was Mt. Storage, which is what the sign application and picture of it show, but everything else says Mt. Storage, Inc., so there appears to be a difference in the business name and for what the application for the sign is. She explained that this had just come to mind, and was not what she really wanted to talk about.

One of the things she stated was that there was no application for the sign permit for the sign to be moved, and her understanding was that the setback from the sideline, which is her & Mr. Redmond's adjoining fence, was 15 feet, and that from the front fence was 12 feet. She said when an application was finally submitted for the variance, it was indicated that he was 5 feet from the dividing fence, and 12 feet from the front fence. That is what the paperwork says, and she stated that in actuality, that was not the truth. She showed the picture, saying she had taken measurements, and it was not 5 feet, but actually 9 inches from the sideline, which has already bowed the fence out, give or take an inch, and it is 9 feet, plus or minus from the edge of the framework and the boulders to the front fence. She continued that what was on

the application and actuality, were not the same. She cited one of the reason he had requested the variance was that if he had done the 15 feet that were required, he would have had the sign located on top of the sewer line, but, that where he proposed putting it was already on top

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of the sewer lines, and said she had pictures of the extended sewer lines, just not with her. Therefore, he had already defeated the purpose. She also generously stated that if the sign was located 15 feet from the sideline, a vehicle would not be able to make the swing around the northerly building. She added that he'd said reason for relocating the sign was for parking, but his application indicated parking would be in front of the building. She said she did not have any objection to the Red Mt. Realty sign, and the Mt. Storage sign, if they were both compliant with the zoning, and were small, but her objection was the location up by the fence, which made it look as though all of the buildings were his. She explained that he had a flag flying from one of the posts already erected for the sign, and people had commented to her on how nice her flag looked, but it was not her flag, and not even on her side of the fence. She said unless people knew them, they did not know that these were two separate places. She thought the signs should be closer to the office, which is located on the southern side of the property. She continued that there *are* two businesses being operated there, that Mt. Storage leases will have the name Mt. Storage on them, not Red Mt. Real Estate, which is a separate entity. She said Red Mt. Real Estate has a license to sell and to rent property. Renting a storage unit is not the same thing as renting property. She said, again, that she had no objection to a sign being there, even two signs being there, that they could be smaller, on a smaller frame, and could be located on the other side, or between the two buildings. Where he is trying to put it now, she said, it will cover up her sign, and also Emlaw's sign, which is an adjoining business to her storage lot, and had been formerly in her and Mr. Redmond's joint ownership.

She added that the property, when it had been under one ownership, had been level. When it was divided, the grade was increased on his lot for the erection of the first building. The second building being added raised it even more, and the two parcels are no longer level. She stated that the grade changes from front to back, but that in some areas there is an 8 inch difference, with his grade much higher than hers. Her point being that the snow had formerly been piled in the corner where the sign location is now being proposed, and due to the increased grade, the melt comes down onto her parcel causing her to have icing on her side. She reiterated that she had no objections to his having a sign, or even two signs, she just felt that it should be located on the other side of the yard.

Mr. Redmond responded: "Number one, what she's referring to is a planter by the sign. The planter has a right to be right on the edge of the property. The sign is five feet from the line, and twelve feet from the front line. The stanchion that holds the sign, the sign is actually further than that when it will be in place. The fact of the matter is, Walt was present when I covered up the sewer system, he inspected it, it was, is and was, over ten feet from the property line. All that stuff is totally false. Walt is here today. He was down there and inspected it. I took him down personally, correct? So, this is all bogus stuff. The fact of the matter is, she has a sign that is larger than the sign I have. In fact she has two signs on that one post on her property. It is higher and larger in area and it is 165 feet away, so to infer that my sign, which is smaller, would in any way block or obstruct her sign is totally garbage."

Ms. Redmond responded that the original Extra Room Storage, all done by permit, is a big sign, that Mr. Redmond had originally applied for when they had been married, and the property had been jointly owned, and, in fact, he had designed the sign.

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Mrs. Dower asked Mr. Tennyson if the septic had been put in properly. He replied that when he had measured it, it was okay, and added that he was not a surveyor, was not hired to be a surveyor. It was presented to him, and shown to him, and if there was a problem, then a survey would need to be done. He goes according to the plans submitted, and when he measured it, it was okay.

Mr. Redmond proceeded to expound about the irrelevancy of the septic with relation to the sign. He then stated: "When I put in the variance, the misconception as to a structure setback being 25 feet from the front line and 15 feet from the sideline...the reason I put those numbers into that request for a variance, because at that time, I had just gone by what was being said. I hadn't reviewed the law, the law clearly states and, absent of being there, a sideline setback is zero. And a frontline setback, and you can't pick and choose...you can't say over here, this is a structure. I've highlighted it in this book...you look under page 34...there is 5 places where it says building...it doesn't say a word about sign. The only thing that has anything to do with setbacks on signs is page 60, as I've already stated. That's just a red herring.

Mr. Tennyson then asked: "Why, as far as the sign and the location go, why couldn't you move the sign toward the Health Center, with a lot line adjustment?"

Redmond: "Because that land is not Mt. Storage."

Tennyson: "Yeah, but with a lot line adjustment, if you moved it that way, so you had that little extra room for parking, and had a lot line adjustment so the sign would have fit in there, just a little farther away..."

Redmond: "Yeah, well...No. 1, being very truthful, I didn't wanna do that. It is within my legal rights to put it where it is, and that's what I'm requesting. The only thing to be considered is the fact that I had an existing sign. It's a non-conforming use. It's being moved from one location. I was very careful to measure. It was 12 feet from the front line, 5 feet from the sideline. I put it at the same location."

At this point, Atty. Hill asked to address applicant: "Mr. Redmond, you refer to your sign, I guess the prior sign that used to be on the south side of the property...is that where the location used to be?"

Redmond: "Correct."

Mr. Hill: "You've referred to that a couple of times as a non-conforming structure, is that...?"

Redmond: "It's a non-conforming sign...it was conforming when I put it there.... If you read my letter, that said...to be very clear, I went to Walt the fall of 2006, when I built the office. Told him I want to move the sign, and what do I have to do. Walt said give me a new plot

plan, which I did. Showed where it was, proposed new location. Fall came upon us, wasn't able to move it in the fall. Came to Walt again, I says 'hey, I'm not gonna be able to do that until the spring.' He said that's no problem. Do it in the spring. Did it in the spring, immediately got a complaint. Walt says 'well, I think you gotta get an area variance.' I said okay, what do I gotta do? Went in, got an application for an area variance, filed it, and he

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says, 'well, the setbacks are this and that,' so I used those setbacks. But it's very clear in the zoning ordinance that the setbacks are 5 feet from the front line and when you have no determined setbacks, in the ordinance, it's zero on the sideline. And, you cannot mix and match sections. The thing about a non-conforming use being a structure, has to do with non-conforming uses. And if you move the sign, which I did...readily admit that...at every juncture I informed Walt. And Walt will tell ya...and...when he said you gotta file a variance, I filed a variance. And I use those exaggerated distances, thinking they were correct. 25 foot from the front, 15 from the sideline. But once I got into the ordinance...that's not what the ordinance says. It's 5 feet from the frontline, zero from the sideline. Mine is 5 feet from the sideline, exactly as it was on the south side, 12 feet from the frontline. That's the stanchion that holds the sign. The surrounding shrubs and the rocks, there is zero in the zoning ordinance, you can have shrubs right up against your line, and most people do."

Mr. Hill: "I'm sorry to belabor this, but I'm still not exactly clear as to how the non-conforming aspect comes in...you had the sign on the south side..."

Redmond: "Okay...the non-conforming sign comes in right here...you're referring to when a sign is a structure, right here." (Pointing to one sentence in the Zoning Local Law). " Non-conforming signs, because it doesn't conform to the present law, because the sign was erected before this law was in place. And once you move it, you go to article 9...you look on 65, you follow me, on page 65. You go to article 9... My sign was put there in 2002. We had a different zoning ordinance then...and I got a permit for the sign then. So when I moved it, that automatically triggered non-conforming use because if you move the sign for the purpose of a non-conforming use, because you had different areas in the old zoning, you follow me? So, it became a non-conforming use when I moved it. Therefore I applied for the area variance, which is required here..."

Mr. Hill: "Right, this provision 'b' says that any non-conforming structure shall be..."

Redmond: "Right..."

Mr. Hill: "...and part of it is moved, to a different portion of the lot, unless such modification is in conformance with the local law, or an area variance is obtained. So you've applied for the area variance."

Redmond: "Correct. That's why I did it. That's what triggered it, and therein was the confusion about the setbacks for a structure, but clearly, section 7 specifies what the setbacks are for a sign."

Mr. Hill: "And in that regard, you're referring to page 60, number 2..." (Tape relayed to side 2)

Redmond: " Yes, correct...and the thing is, you know, I even went so far as to, ya know, if you look up the word related...established association, connection...if you look under related, associated, connected, existing connection. Certainly there's a connection between the authority and rental agent, and Mt. Storage. Ya know it's ironic, but in this weeks Adk. Journal, in advertising, the storage business in Schroon Lake put up a new sign, and right on the sign they said :Friedman Realty, rental agent. Hello! How different is that?"

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Ms. Maxam: "That's Essex County."

The Secretary interjected that the portion of zoning law that was being referred to specified what size the sign could be at a 5 foot frontline setback distance...

Redmond: "That's right, but that's where it becomes a non-conforming use. See, because it was permitted under the old zoning, at the present size. Once I moved it, it triggered an application for an area variance, which I did."

Mr. Hill: "Correct, you need to have area variances now for..."

Redmond, interrupting: "Correct, and that's what we're here for."

Mr. Hill: "But your area variances are necessary both for side setback requirement, and also from the front setback requirement."

Redmond: "Correct, but this present law says 5 feet now, from the front."

Secretary interjects: "At a 12 square foot sign."

Redmond: "Right, but, but...the permit for that sign, when I moved it, allowed...that's a non-conforming use, and that's what made it a non-conforming use. That it was a different area, okay?"

Mr. Hill: "Moving it to a different location on the lot..."

Redmond: "And then moving that sign, that non-conforming use to a different location, triggered an area variance."

Mr. Hill: "The need for an area variance..."

Redmond: "And that's what I applied for..."

Mr. Hill: "Actually in this circumstance, there are two area variances that are necessary. The area variance from the side setback, and the area variance from the front setback. Once..."

Redmond, interrupting: "There is no side setback according to this law."

Mr. Hill: "But where are you...I don't understand how it is that you believe there is no side setback."

Redmond: "Show me where it is...show me where the side setback is...that's for a building, not for a sign. Right here...you got a five foot, period, front line setback. There is no mention of a sideline setback. My attorney has clearly reviewed this..."

Mr. Tennyson: "It's a structure and it comes under Hamlet, and the Hamlet side setback is 15
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Feet."

Redmond: "For a building..."

Several people at one time, including Tennyson: "A structure...Under our new ordinance, a structure is anything other than a flagpole, a fence or a fuel tank. "

Redmond: "Okay then...fine. That's what I applied for, cause that's what he told me."

Mr. Hill: "Okay then, that's what we're considering, area variances. And, I think the other..."

Redmond, interrupting: "I disagree with it, but that's fine 'cause that's what I applied for."

Mr. Hill: "Correct, okay, and then that's right, you got your application in for two variances, a side setback variance, and a front setback variance. I think as Pat pointed out here a minute ago, and I think consistent with the previous information from the zoning officer, the permissible, or the required front setback, according to page 60, number 2b, the latter part of that paragraph, indicates that the required front setback varies with the size of the sign that's being proposed. So that a five foot..."

Redmond, interrupting: "If I were to put a new sign in. But bear in mind, when I made this application, I had a valid sign permit for the sign that I was requesting to move. I was informed to keep the sign down until after the hearing. That was a valid permit. I did not remove the sign willingly. At every juncture, I complied with the zoning administrator."

Mr. Hill: "Well I think when you say you didn't remove the sign willingly, you wanted to change the location of the sign, so you took the sign down in preparation to move it over to the northerly side of the lot, right?"

Redmond: "At his direction."

Mr. Hill: "Well..."

Secretary, interjecting: "But you already had the posts up..."

Redmond: "No, no...you're missing a step. Read my letter...I came here in 2006...what do I have to do? He's the authority figure... not me..."

Tennyson: "I totally disagree..."

Mr. Hill: "Well, you wanted to move your sign..."

Redmond, interrupting: "Well, if you disagree with that, you better check your files for a new plot plan that I submitted right on the plot plan for my sewer application."

Mr. Hill, trying to continue: "You had a sign on the southerly..."

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Tennyson: "It's a plot plan, not an application..."

Redmond: "No...I did what you directed me to do, Walt...Now I don't want to make this a big deal..."

Tennyson: "I've been at this for twenty years and I know better than to do something like that..."

Redmond: "Well that's what you did..."

Chairperson Dower regained control of the meeting..."Mr. Hill is talking..."

Mr. Hill: "You had a sign on the southerly portion of your lot. You've moved it, or you want to move it to the northerly side of the lot. The..."

Redmond, interrupting: "I've got a question here...and, this may clarify everything...or it may throw the whole town into turmoil...At what point in time, once you remove that sign, for one minute, one second, it invalidates that permit. Is that what you're saying?"

Mr. Hill: "I believe that the zoning administrator, in prior correspondence to you, indicated that when the sign comes down, it is no longer valid."

Redmond: "So, I'd like a yes or no answer. If it comes down for, no matter how long it's down, that permit is invalidated."

Mr. Hill: "The zoning officer already communicated that information to you in a letter, I believe..."

Garbled....interruptions by Redmond: "Is that correct, though?..."

Mr. Hill: "According to the zoning administrator that..."

Redmond: "When a sign comes down for how long, that voids the permit?"

Tennyson: "Yeah."

Redmond: "Okay."

Ms. Redmond: "Does it depend upon where it goes back up again?"

Redmond: "No, it doesn't. Once it's removed, it's invalidated. Not only my sign, any other sign. And lets be clear about this..."

Mr. Hill: "When somebody...I think, Mr. Tennyson can clarify this. "

Tennyson: " If you take it down to repair or paint it or something, no...you gotta have a little common sense here..."

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Mr. Hill: "In that circumstance that you just mentioned, Walt, that sign would be going back up in the same location, that was taken down to repair."

Tennyson: "In the same location, not in a different spot."

Redmond: "To repair. But once you remove the sign you can't replace it with another sign and say ooh, ooh, I'm grand fathered in. No, no, no...you're playing apples and oranges..."

Mr. Hill: "Mr. Redmond, let's be clear about this...you are proposing to move the sign, you had a sign at the southerly..."

Redmond, interrupting: "And I put in for a variance as I was directed to. At every juncture I have been in compliance with the direction of the zoning administrator."

Mr. Hill: "You're here before this board tonight, for this board to consider your request for a variance...so I think at this point, what we need to establish is, or it seems that it would be relevant to establish the magnitude of the variances that are necessary, to make sure that the board understands the magnitude of the variances. Now, let us turn our attention first of all to the side setback variance. The zoning administrator has just noted that the required setback is what, Walt?"

Tennyson: "15 feet."

Mr. Hill: "15 feet, okay. How close is your sign..."

Redmond, interrupting: "I applied for a relief by 10 feet because it would go into my sewer system."

Mr. Hill: "So, the proposed sign, you've indicated would be..."

Redmond: "5 feet off the sideline."

Mr. Hill: " 5 feet off the sideline. That's the sign, itself, that you're speaking of?"

Redmond: "That's correct."

Mr. Hill: "So then you're seeking a 10 foot side setback variance then..."

Redmond: "Correct."

Mr. Hill: "...from a 15 foot requirement, you want to be within 5 feet?"

Redmond: "Correct."

Mr. Hill: "Alright, that's what you're requesting with regard to the side setback?"

Redmond: "Correct."

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Mr. Hill: "With regard to the front setback...okay, how large is your proposed sign, in terms of square footage?"

Redmond: "32 square feet."

Mr. Hill: "So that's 32 square feet, and you're proposing to place it how far from the road?"

Redmond: "12 feet."

Mr. Hill: "Be 12 feet from the road, okay..."

Redmond: "Now, bear in mind, when I made this application, I had a valid permit."

Ms. Maxam: "For what?"

Redmond: "For the existing sign."

Maxam: "But you moved it."

Redmond: "I'm talking to the board..."

Mr. Hill: "But I think in the conversation with the zoning administrator a few minutes ago, he confirmed his prior correspondence to you, I think of early July, where he indicated that permit expired, or became null and void when that was removed."

Redmond: "You know I can live with that. As long as this isn't arbitrary. I mean, the zoning ordinance applies to everybody."

Mr. Hill: "Correct."

Redmond: "I mean you can't put up a Rite Aid sign and take down a Brook's sign, and say in that case it's grandfathered in. That happened, not when it was inspected on the 27th. I wrote it down on my calendar. I took pictures on the 20th when it happened. So that's what I'm saying. If this board wants to say 'we're gonna open up a whole can of worms that we don't need to,' and I tried to be very careful in showing you where you could address this thing

and get this over and done with. If you say Brook's was there and they took the sign down, that's null and void, the same as Charles Redmond's null and void. And they put it back up with another sign. Otherwise it's arbitrary."

Mr. Hill: "Well Mr. Redmond, I think there's a distinction to be made between the two circumstances. You're talking about a change in the sign fascia, I guess."

Redmond: "No, No....whole sign. Whole sign."

Mr. Hill: "Well, in your particular circumstance, and I think we better focus on that, you're talking about moving a sign that was previously along or near the southerly boundary of your property, now moved to the northerly side."

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Redmond: "Same distance from the road, same distance from the sideline."

Mr. Hill: "But in a different location on the lot."

Redmond: "It's the same setback from the frontline, same setback from the sideline. Very...just moved from the south lot line to the north lot line."

Mr. Hill: "Understood. I understand your point, but also with reference to the code requiring that when the non-conforming structure is moved on the property..."

Redmond, interrupting: "You file for a variance...which I did."

Mr. Hill: "Right. Exactly right. And so we're here to consider that. So, you've got a 32 square foot sign that you're proposing at a 12 foot setback from the road, am I correct? So for 32 square feet, Walt, what's the required setback for a 32 square foot sign?"

Tennyson: "I don't have anything here to go by."

Mr. Hill: "Alright. The maximum size of any sign at the 5 foot minimum...."

Redmond, interrupting: "...that would be 15 feet."

Mr. Hill: "... shall be 12 square feet. So, you've got 32, that's 20 additional square feet..."

Redmond: "Two for each foot, is 20 more feet...is 10 more feet, rather. So, if you add 15 more feet."

Mr. Hill: "So 15 feet would be the..."

Redmond: "...distance back from the front line."

Mr. Hill: "Walt, is that consistent with your understanding, as the zoning administrator?"

Tennyson: "That's right."

Mr. Hill: "So it would have to set back 15 feet and the proposed setback distance is 12 feet, is that right? So you would be looking for a 3 foot front setback variance then."

Redmond: "Well, I'd be looking for, instead of a 12, a 15." If you're using the...instead of ...now...see, what you're doing is, you're mix and matching here. You're saying 5 foot and then you're using that to gain the area, but then you're using the 25 feet from the other section for the setback. So..."

Mr. Hill: "Sorry, I'm not following you..."

Redmond: "Okay...5 foot setback from frontline. Correct?"

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Mr. Hill: "It's 5 feet for a 12 square foot sign. That's the largest sign you can have at 5 feet. If you want to have a larger sign, the setback increases. A larger sign has to be set farther back..."

Redmond: "You have to have 2 feet for every 1 foot back..."

Mr. Hill: "Right, you can gain 2 feet of area for every additional foot that you set it back. So to gain..."

Redmond, interrupting: "...so it would have to be another 10 foot back."

Mr. Hill: "Correct. So, it has to be the initial 5 feet..."

Redmond, interrupting: "What I applied for was to allow the sign to be at 12 feet and 5 feet."

Mr. Hill: "Right, 12 feet back from the front, and where 15 feet would be required for the size of the sign you're proposing, so that would be a 3 foot variance with regard to the front, and with regard to the side, there is a 15 foot requirement, and you would propose to be 5 feet off of that, necessitating a 10 foot variance. So, is the board clear on what's being applied for and the magnitude of the variances?...and, Walt, based on your investigation, Mr. Redmond has said that the stanchions for the sign, and the face of the sign would be 5 feet back from the property line. Is that consistent with your understanding, is that what you have seen out there at the site, because I think other information has been presented that disputes the magnitude of the setbacks. We're trying to determine the facts of the matter, and what setback is necessary."

Tennyson: "This is how I've done it. Under our new ordinance, anything other than a flag pole, a fence, a fuel tank, requires a zoning certificate, 'cause its classified as a structure. We've had stone walls on property where the APA got involved and they had to be taken down. Where I measured from was the fence to the stones, I call it structure, or flowers, or whatever he has around the..."

Redmond: "So you can't have a flowerbed on your property line?"

Tennyson: "Well we have another application for flower beds in town. (Garbled)...Well, things have changed, and people don't realize it. Charlie needs a 3 foot variance on the front, and, well at least a 10..."

Redmond: "The stanchion is 5 feet and 2 inches off the sideline."

Secretary interjected some clarity with regard to the Brook's/Rite Aid sign, explaining that after an application is received, the sign is erected, then the zoning office is called to perform an inspection, and a zoning certificate is issued thereafter, not necessarily on the date that the sign is erected. Walt added that we had to do some searching in order to get the information out to the company that represents Rite Aid. (My note: That is because Saxton Signs applied for, and had their name on the permit application. We had no address for Rite Aid Corp. pms).

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Tennyson: "Here's what I did. I did this because we ran into this issue with the Park Agency, number one, a job over in Friends Lake. They wanted to put a stone wall like this along an adjoining landowners sideline. It required a permit. The Park Agency said it's a structure. So that's what I did here....I didn't measure to the frame, or the posts. I call it a flagpole now..."

Mr. Hill: "So we're saying that the surrounding garden, planter, stones, whatever, constitute a structure..."

Tennyson: "It's part of this..."

Mr. Hill: "Do we know how close this is to the fence?"

Tennyson: "This to this (looking at a picture), I got 9 inches. But there the fence goes in and out...excuse me, I got 10 inches, 9 foot 2" on the front."

Redmond, sarcastically: "We wouldn't wanna make the town look nice would we? No, we wouldn't wanna do that, now would we..."

Mr. Hill: "So now we need to look at this, and we need to clarify exactly...Walt, you're saying that the stones, the planter, whatever, constitute a structure, they're 10 inches from the sideline, and, so, what's the required variance...there's a 15 foot sideline setback, the stones are located within a foot, so what's the required variance? 14 feet, 2 inches. Now from the front, how far back are the stones?" (Walt had 9 feet 2 inches). "And the required setback on the front would be 5 feet, 10 inches. So then I guess I should ask you, are you then going to amend your variance application to seek those variances?"

Mr. Redmond agreed to initial the changes on his application.

Mr. Hill: "You can initial that later, but it's in the record, so the application has been amended to seek the variances just discussed, 14 feet, 2 inches on the side, and 5 feet 10 inches from the front. Is that correct? (Mr. Redmond agreed). So the application is considered amended to that extent."

Ms. Maxam was recognized from the floor. She mentioned that Mr. Redmond had stated that Red Mt. Real Estate was not a second business on his property, which she disputes, presenting a letter from the NYS Dept. of State from the Real Estate Division, indicating a change of address for Red Mt. Real Estate, showing a copy of the certificate indicating that Red Mt. Real Estate is operating as a broker, not a rental agent, at 6229 State Route 9, the site of Mt. Storage, Inc. Secondly, she wished to add to Ms. Redmond's remark regarding snow removal, stating that Mr. Redmond's original application for Site Plan Review for that property indicated that snowplowing would be done from front to back, and that none would be plowed to the rear of the property. As Ms. Redmond noted, some of that snow was being put in that north corner. If there is a sign there, there's no room for snow. Ms. Maxam presented a picture showing Mr. Redmond putting the snow over the fence onto Foster Flats Road. She stated that if snow location and removal had been an issue last year, it would certainly be exacerbated with the addition of a sign on the north corner of the property. The third issue was with regard to the sideline on the south side of the property. She had maps of the survey of the property,

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showing the original lot lines, and the fence, where the original sign had been located. She stated that the fence had been moved at least 10, maybe 15 feet, and wondered, as Mr. Redmond had indicated the sign had been 15 feet from the side line, did he mean 15 feet from the lot line, or 15 feet from where he'd relocated the fence. She added that part of the former structures property was now within the fence of the storage property. Additionally, she stated that the propane tank that is servicing Mt. Storage, is actually on the other lot, which was known as Mt. Structures. She reiterated that the location for parking was indicated on the original application as being in front of the building. She stated that she had challenged him at the time, telling him that he did not have room for parking there. There was no indication at that time for any parking to take place on the south side of the lot. She also presented his application for the second storage building which shows the sign on the south side located right on the lot line, not 15 feet from the sideline, as he had stated. She concluded that the structures lot, as it now is, is not as was presented to the Planning board, approved by and permitted for. He has increased the lot size.

Redmond responds: "The snow removal issue is not what we're talking about, the fence is not what we're talking about. The location of the sign. I think I've been very clear about that."

Ms. Maxam countered that she believed the issues she had raised were germane to the issue and the location of the sign. It pertains to the area that he wants the variance for.

Mr. Hill referred back to Mr. Findholt's question with regard to why he wanted to move the sign, and ...

Redmond stated that he had made original application with parking in front of the building, but had found it to be inconvenient for his customers, and he moved it to the side (south side) where they could come and go without being obstructed. He continued, "it's a matter of, you do things, you realize, you do things differently. The sign was in the road, all I did was put it on the other side. It's not like my sign is next to Extra Room Storage sign. Her sign is all the way on the other side of the lot like mine is. All the way on the north side of the lot. Hers is all the way on the north side of her lot, 165 feet away. If there's any questions I can answer,... be

more than happy to.”

Ms. Redmond clarified that when the original sign was put up for Extra Room Storage, and Emlaw’s sign, it was under joint ownership with her and Mr. Redmond, and there were not two separate lots at that time, they had not even been divided at that time. Her concern is that the Mt. Storage sign, erected on the north side of Mr. Redmond’s lot will make it appear as though he owns all four of the storage buildings. She feels that it presents a conflict, and admits that competition is good, but not to wipe out the adjoining neighbors. She asked why, if he was going to have two businesses, he couldn’t have two small signs on the signpost, by the office, whether it goes on the building, or hangs from the building.

Mr. Sewall asked Mr. Redmond if he was talking about moving the same sign.

Redmond: “What happened is, as stated in the letter, I moved it, then asked for the variance because he said it was required. The exact same sign is going back on the stanchion.”

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Tennyson: “My question is this...we’ve got two different businesses here, right? Real Estate, and the Storage. Charlie’s saying it’s a rental agent for Mt. Storage. But he’s also saying it’s a Real Estate office, and gonna be storage. Now if it’s gonna be two different businesses, it’s a different use in the same structure, and I believe it would require Site Plan Review, which is something else besides this board.”

Mr. Hill explained that this was not the Planning Board, but the ZBA. “I think, at least in review of correspondence that you’ve had with Mr. Redmond, at least back and forth, some months ago, you sent Mr. Redmond a letter, indicating that your view as Zoning Administrator, was that the Real Estate business constituted a separate business on the property. So I think your determination about that is already on the record, if I’m recalling your correspondence correctly.”

Tennyson: “I just want to get it clear.”

Mr. Hill: “Okay, but your point about Site Plan Review, that’s a separate issue and not for this board. This board can’t do Site Plan Review.”

Ms. Redmond queried whether, if approval was given for the Mt. Storage sign, would the Red Mt. Real Estate sign, which has not had a permit issued, be taken down.

Mr. Hill: “I think the zoning administrator has already addressed that issue in correspondence, which is in the file, ...referenced the section of the code that limits signs to a sign for one business,...he informed Mr. Redmond some months ago that, in his view as zoning administrator, the Red Mt. Real Estate business is a separate business from Mt. Storage, and as such, the code would not allow separate signs for two separate businesses on the same property, unless those signs were on the same sign board. There is a provision under the code that allows that.” He then asked Mr. Tennyson whether he was recalling that correctly, and Tennyson responded affirmatively.

Redmond: "I think if you review page 60, you'll see that it says related business."

Ms. Maxam: "It's not related."

Redmond: "If it's a rental agent it is related. I just want to point that out to the board. I'm not arguing with anybody in the audience."

Ms. Redmond: "You don't need a license to rent storage units. You need a license to be a broker, to do real estate, to do rentals of apartments, and so on. There is definitely a difference. I don't need to have a license to rent storage units."

Redmond: "That's incorrect. I am a broker. Neither of these people is a broker. To set themselves up as an authority for any knowledge of that is erroneous. The fact of the matter is, Red Mt. Real Estate is entered in agreement with Mt. Storage, Inc., to be the rental agent for Mt. Storage, Inc. Therein the connection lies. And the law clearly states 'related business'. Two signs are allowed. I'm not making that up. That's what the law says."

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Mr. Hill: "Well, I think at this point, I think you need to go back to the decision of the zoning administrator on this question. As I said, if I recall the correspondence correctly, some months ago, the zoning administrator advised Mr. Redmond, that in his opinion as zoning administrator, Red Mt. Real Estate and Mt. Storage were two separate businesses, operated on the same property, and, as such, they couldn't have separate business signs, unless they were on the same sign board. Is that essentially what the code says, Walt? I'm paraphrasing your former correspondence."

Tennyson answered affirmatively.

Redmond: "I'd just like to point out...that's an arbitrary decision. I'd just like to get that on the record."

Ms. Maxam was recognized by the Chair. She stated that she had 3 points to make. 1. He (Redmond) kept referring to his Attorney, why was not his Attorney present? 2. He (Redmond) made mention of an agreement, why was it not presented into evidence, and 3. The alleged planter, as it is now being called, is not the same planter that was in existence at the south end of the lot.

Mr. Sewall asked of Mr. Hill whether the other sign issue was pertinent to what they were trying to decide tonight.

Mr. Hill asked for clarification, it was indicated that the Real Estate sign was being referred to. "I think the question arose, I believe Ms. Redmond asked in the event that this board grant variance approvals for the location of the proposed sign, would Mr. Redmond be required, as a condition of the approvals, to take down the Red Mt. Real Estate sign, before putting up the proposed new sign. And, in that regard, the zoning officer's previous determination with regard to Red Mt. Real Estate being a separate business on the property, and the code allowing the signs for only one business on the property, unless the signs are both on a separate sign board,

would be relevant for the boards consideration in considering any conditions that it might impose. And, ... the letter of August 9th, from the zoning administrator, makes reference to a prior letter. There was a letter of July 16th from Mr. Tennyson which said 'My letter of July 16th repeated my opinion. I explained to you before in conversation that your Red Mt. Real Estate sign is a separate sign for a second business on the property. As I said in my letter, it would be a violation of the Town zoning code for both your present Red Mt. Real Estate sign, and your proposed storage unit business sign to be displayed on the property at the same time, because the Town zoning code does not allow separate signs for more than one business on a property.' That's in part, and the letter is obviously in the file and available for you to read. That refers back to the letter of July 16th where the zoning officer rendered that opinion."

Redmond: "If I may...I would once again direct your attention to page 60, paragraph 'b' of Article 7, two business signs may be erected or maintained advertising or otherwise relating to a single business. If you set that condition, I would state that that's arbitrary."

Ms. Redmond asked whether there was a particular size, if there was more than one sign.

Some discussion followed, and Mr. Redmond then stated that he thought we were "getting far
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afield from the issue that is here tonight. It has to do with whether or not I can have an area variance on the Mt. Storage sign."

Mr. Hill: "Mr. Redmond, I think that's the initial question, but there's also a legitimate question for the board, whether it decides to grant you area variances that you're seeking, whether or not as a condition, it would be appropriate for them to impose a condition requiring the removal of the Red Mt. Real Estate sign. In that regard, the zoning officer's opinion, or determination, first articulated back in July, well, articulated to you in prior conversation, sent to you in correspondence in July, would seem to be a relevant consideration for the board."

Redmond: "Also, wouldn't it be relevant, the section of law, NY State Real Estate that requires, as a rental agent and a broker, NY State, that I have a sign there? Or, it's the board's, or whoever's interpretation that the Town of Chester Zoning Law supercedes NY State law?"

Mr. Hill: "I don't think it's a matter of whether the Town's code supercedes the section of the law that you're referring to that requires broker's to exhibit a sign. I think in prior correspondence...I think it was from the zoning officer, he indicated that there doesn't appear to be any conflict between the State's requirement to exhibit the sign and the town's limitation on signs. You can...there's no necessary conflict between those two."

Redmond: "Well, I would say that determination is arbitrary, in view of what the zoning law states."

Mr. Hill: "That may be...I mean you've stated with respect" (tape relayed to 2nd deck on recorder...a couple of words lost...) ..."the zoning officer has reviewed the code, and has found the basis in the code for the determinations that he previously made, so you can certainly have your view, but the zoning officer had previously made his determinations based on review of the codes."

Ms. Maxam asked why the Red Mt. Real Estate sign hadn't been there previously.

Redmond: "Maybe because I didn't have an office. Would that be maybe a good idea?"

A little confrontation took place, at which time Mrs. Dower, and the Attorney stepped in.

Mr. Hill: "We have, as a board, you now have information before you. You have a revised application, indicating the magnitude of the variances being sought by Mr. Redmond as the applicant. You've heard comment from the public, received additional information as a result of the comments, and, at this point does the board have any additional questions of the applicant regarding his application? I think that would be a question to ask at this time, bearing in mind that you will be reviewing certain criteria with respect to whether or not to grant area variances here. If there are any further questions, now's the time to ask them. If you're satisfied with the information you've received, then that's fine, but if you have any further questions, now would be an opportune time to ask them."

No further questions from the board.

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Mr. Hill: "Did you want to engage in discussion of the...as a board you're aware that you have certain questions that you need to consider in deciding to grant an area variance. Those are the questions prescribed by State Law, those are on your form, the Summary of Area Variance Criteria."

Mr. Sewall asked whether public hearing should be closed. Mr. Hill advised them that they had not done their SEQR review, and recommended that, as legal counsel, they have a draft determination made, whatever their ultimate determination is, that they have a draft decision prepared in order to make sure that they have a comprehensive decision on the matter that reflects their reasoning as to all the variance criteria. He advised that they do a SEQR review at a later time, before they make their final decision, if they want to have discussion about the criteria for purposes of getting an indication as to what kind of a draft decision they want.

Mrs. Dower read the criteria, beginning with the first:

1. Whether benefit can be achieved by other means feasible to applicant. Discussion: Mr. Hill stated that "this is the question that deals with whether there's an alternative way, or an alternative action that could be taken that would eliminate the need or reduce the need for area variances in this circumstance. Is there something else that the applicant can do that would eliminate or reduce the need for the variances?"

Mrs. Dower asked whether Mr. Redmond owned the other property, also, (indicating the former Mt. Structures lot, now vacant, and adjoining Mt. Storage lot to the south side), to locate the sign there.

Redmond stated he did not want to do that, and continued he "may have another use in mind for that property which would be not consistent with having a sign there." (Ms. Redmond

indicated that the propane tank that services the Mt. Storage lot is located on the former Mt. Structures lot). Mrs. Dower asked whether the propane tank was located on the former structures lot, and Redmond replied: "Yeah, I lease Mt. Storage a piece of that other property for the purpose of, once again, being in compliance with zoning...I put snow there in the winter, but to permanently put the sign there...you know the propane could be moved at any time. You know, it's out of the way, it's a very reasonable thing. It's where I put snow."

Ms. Maxam was heard: "Mr. Redmond has referred to two pieces, two documents now, that would be germane to this hearing, and I think they should be presented to the board, in order for the board to consider them. One is his proposed lease, as he speaks, from Mt. Structures to Mt. Storage, and the other was some other document where Red Mt. Real Estate is the rental agent, or whatever. I think those two documents should be submitted into evidence."

Redmond: "They don't have any bearing on this case."

Mr. Hill: "Getting back to the question you're considering here, which is whether there are any alternatives, it seems, if I'm recalling correctly, that Mr. Tennyson asked a question with regard to a boundary line adjustment. A boundary line adjustment done between Mr. Redmond and himself, as to that boundary line, could be a way to afford an opportunity to locate a sign, on what would become Mt. Storage property, but still allow the sign to be moved and comply, or

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potentially comply with the setback requirements. So again, ...you may want to go back to that comment."

Mr. Sewall questioned Mr. Redmond about moving the sign to the former Structures property, and Redmond replied, adamantly, "No, I did not want to move the sign on the adjoining property, because if I use it to build something else on, it will be in the way. Over here it's not in the way." Mr. Sewall then asked for clarification as to Mr. Redmond seeking the variance due to the location of the existing septic. Redmond: "That's correct. And if it were back further, it would be right in the middle of the driveway on that side of the building." Mr. Sewall, "And the reason for the move is for the parking on the south side." Redmond: "Correct. And actually the ease of entrance and exit, cause once the office was built, it restricted between the sign and the side of the office, snow removal, a lot of things..."

Mr. Hill: "With regard to the possibility of a boundary line adjustment, and it may be relevant for you to inquire of Mr. Redmond, as to how much frontage the other lot has, and how much frontage is available there for a potential boundary line adjustment. That may be a relevant question you might want to ask Mr. Redmond."

Ms. Maxam offered a survey map of the property for viewing. Mr. Findholt noted that the map did not show the openings of each section. Mr. Hill offered: "Maybe the thing to do is to try to identify the frontages on that property and ask Mr. Redmond if the measurement on the map is consistent with his understanding of the frontages."

Redmond: "Number one, let's cut to the chase. I do NOT want a boundary adjustment to put a sign there. Period. It's not beneficial for these people to be suggesting things about my property. It's totally off the wall. And it's not beneficial to dealing with the problem that's

before you.”

Ms. Redmond offered that it would be beneficial to her to have the sign on the other side of the lot, where it originally was. She felt that it was too close to her side. Ms. Maxam stated that the map she had offered was the original survey map that had been presented to the Planning Board, and she was not saying that the frontage that exists down there now is the same, but the lot sizes have been changed by sight...”

Mr. Hill: “As a board, the question is whether there’s a feasible alternative, so the thing, I think, the examination, the inquiry that you want to make is, if you’re considering that this is a feasible alternative, it is necessary to know whether there is frontage on the adjacent lot on Route 9, and if so, how much. Does that map indicate what the frontage is?”

Mrs. Dower: “Yes, 175 feet on the other lot, and 135 feet on his lot.”

Mr. Hill: “On the Mt. Storage lot, but on the adjacent property to the south, approximately 175 feet of frontage. And you might want to ask Mr. Redmond if that’s consistent with his understanding of what the frontage is there.”

Redmond: “If it’s on the map then, sure it is...”

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Ms. Redmond queried about his making a boundary line adjustment, stating that the fence had already been moved for ‘them’ to go around the south side of the building, and she thought the sign could be moved to the other side, just like the propane tank is on the other side of that fence, which is not a lot line, not a boundary line. It’s taking in more of the other lot to give him room.

Mr. Hill: “The board, I think is considering whether or not there would be a possibility of a lot line adjustment. Are there any other...also relevant is whether there is any other possible location for the sign that would not require an area variance. Does the sign ordinance permit the sign to be affixed to a building? Is that an alternative location? I think it does. Again, these are just by way of potential alternatives, that’s all.”

Redmond: “It would not be visible...”

Tom Boghosian, brother in law of applicant, asked to speak, as an observer, asked whether this meeting had been advertised. (Yes). Wondered why there were not several other business men in the room speaking for or against. Said he sensed, but he didn’t know why, because Charlie paid taxes in this town, heading in a direction to make this community better, and in his own heart, he sensed stonewalling. He also thought there was some vindictiveness thrown in, to boot, thinking it was a sad situation.

Mr. Hill: “If I may, with respect to those remarks, this board nor I, nor anyone here wants to try to characterize the motivations or interests of any members of the public, but, I do want to clarify, that this board is going to make it’s decision based on the facts, and it’s going to apply the law and the criteria that it’s required to apply under the law. This board, I know, they’ve

expressed on many occasions, they want to fulfill their responsibilities under the law and provide a fair hearing and make a fair decision.”

Boghosian, interrupting to ask another question. Wants to know if every single sign in the Town of Chester is in compliance with what is being asked of Redmond.

Mrs. Dower stated that she had no idea. Boghosian stated that Mr. Tennyson would know, and if not, then they would all need to be re-looked at. Mrs. Dower stated that the board only handled them when they were brought before them.

Ms. Redmond interjected that she did not believe the public hearing had to be advertised every time it was heard, because it had been adjourned at the first meeting. The Secretary stated that in addition to the original hearing notice, a notice of re-opening and re-hearing of the application had been advertised the week before this meeting. She also stated that only the adjoining property owners were notified, and basically they would be the only ones turning out for these meetings.

Ms. Maxam stated that Mr. Boghosian was not a resident of the Town, and she was, as was Ms. Redmond, and it was not vindictiveness, but a matter of being an adjoining property owner, and protecting their own property.

Number 2. 'Undesirable change in neighborhood character or to nearby properties. Discussion:

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Mr. Findholt stated that we've heard from two of the neighbors, and they don't care for what has been suggested here. He asked Ms. Redmond if anything could be done to make it better for her, if it were approved. She stated that it was already there, (the structure), but they were saying if he was given permission it would put the sign framework 9 inches from her sideline. Findholt asked where she would like to see it, and she said she would like to see it back where it was.

Mr. Hill: "Just to kind of bring the board back to focus, here, we've had input from the neighboring property owners as to what they like, and so forth. What you're looking at here is based on the information presented, and on an objective basis, whether there would be an undesirable change in the neighborhood character, or to nearby properties. So, on an objective basis, the adjoining property owners have presented information and their subjective feelings. We're looking for on an objective basis. Elwood, I think your question is good because, your initial consideration is for, implicitly, is there something that could be done, a condition or some modification or something that might make this something that would make this more palatable or less objectionable or have less of a negative effect. At least I think, that's what I assumed your question was going to, and that's a very relevant question, as part of this consideration. But objectively, you have to determine whether or not there's going to be some kind of an adverse effect on the character of the neighborhood or adjoining properties."

Ms. Redmond: "I would not object to the standard signs that they say are allowed, where you're going to have two businesses, where you're going to have the smaller signs. I think they look very nice and say everything that needs to be said for the two businesses on that lot, closer to where the office is. I don't anything needs to be that close to the adjoining neighbors

fence line.”

Mr. Hill: “Having heard that, again, you’re consideration here is whether or not, on an objective basis, there’s going to be an adverse effect on neighboring properties. So, do you have any discussion about that, or what’s the board’s view.”

Mr. Findholt, directed to Mr. Redmond: “Is there change that could be done to what you’re requesting that would be more palatable.”

Redmond: “I don’t think so, and, ya know, I’m trying to be very realistic. What my ex-wife has for a sign advertising her storage is larger than my sign. In fact there are two signs on the stanchion with a roof over it, that’s by far higher, larger, bigger, located on the north end of her property. Mine will be located on the north end of my property. And smaller. So, to give any credence to what she’s saying about the sign being there ... her sign stands out far more than mine does. It’s ridiculous.”

Findholt: “Was her sign larger than your old one that you took down?”

Redmond: “YES! It’s presently up. It’s 4 foot by 10 foot.”

Ms. Redmond: “ HE designed it, and he had it installed in 1988. He’s saying my sign is so huge and it’s gotta be ...HE designed the whole thing, and it’s made for Mike’s (Emlaw) sign, too, which was also our property, but on the other side of the fence. At that time, apparently,

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you could have two large signs, or they wouldn’t be there.”

Redmond: “And I don’t disagree with that. But the fact of the matter is, they are presently still there, still in existence. And I find it, you know, not very good argument, when you say ‘Gee, it’s alright if I have two signs, bigger than yours, but yours is objectionable to me.’ ”
(Garbled exchange...)

Ms. Maxam: “The point being, Ms. Redmond’s sign is not bothering anything, it’s over in the corner, it’s not in the way of any ingress, egress, it’s not in the way of any plowing, it doesn’t need a variance, it’s been there since 1988. Ms. Redmond’s sign is not the issue, Mr. Redmond’s sign is. It needs a variance...it’s in the way of ingress and egress, it’s in the way of snow plowing, and it will detrimentally affect the drainage, because we can no longer plow snow there, it will have to go somewhere else on the lot, and there is virtually no room on that lot.”

Redmond: “That’s baloney.”

Mr. Hill: “The board may want to give some further consideration to that and move on to the third question.”

3. Whether request is substantial. Discussion: Mrs. Dower: “Request is for 14 feet, 2 inches, out of 15 for the side, and 5 feet 10 inches for the front out of 15. It is substantial.”

Discussion followed, agreement on the side setback being quite substantial. All agreed, allowing that the front was not as substantial

4. Whether request will have adverse physical or environmental effects. Discussion:

Board did not immediately recognize any significant adverse physical or environmental effects.

5. Whether alleged difficulty is self-created: Discussion:

Findholt stated that he would say so, in that the southern sign could have been left where it was, and Sewall stated that it is self-created in that a variance is being sought to relocate it.

Mr. Hill: "One of the relevant considerations there is whether there is anything physical about the property like a mountain, or something, resulting in the application. In this case, it doesn't apply."

Redmond: "No, it's a flat lot."

Mr. Hill: "Going back to your question No. 4 for a minute...about the physical effects, and so on...Was there information in the record about some fill being added, or something? Isn't there something about that?"

Ms. Redmond: "I said it."

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Mr. Hill: "Was that done ?..."

Redmond: "That was done when I built the first building. Nothing to do with this."

Mr. Hill: "And you heard information with regard to snow, and so on, and you had discussion about that. Did you take that into consideration, all the drainage and so forth there? Um, we've had some preliminary discussion about these questions, and again, under the circumstances, I think the recommendation is that you have a draft decision prepared for your consideration, based on your discussion here tonight, with regard to these criteria. Under the circumstances, in order to make sure that you have a comprehensive decision, I think that would be our recommendation, as counsel."

Mr. Sewall returned to question #1, with regard to feasible alternatives, and stated that Mr. Redmond did not feel that they were feasible to him, but it appears that there are possibly other alternatives.

Mr. Hill stated that it had to be answered objectively. If there was an alternative available, then that would be how to approach it. "Applicants all have preferences as to how they would prefer to do things, but whether or not an alternative is available, that has to be an objective determination."

Mrs. Dower asked whether matter should be tabled until after the board had reviewed the

drafts from counsel. Mr. Hill re-stated that it would be determination and recommendation of legal counsel that drafts be prepared, so that the board would have a comprehensive decision that would be made. Mr. Hill continued: "If that's what you want to do, then the appropriate motion at this point would be a motion to table the matter until your next meeting, to direct us to prepare a draft decision, or decisions for you. The public hearing is still open. You haven't done your SEQR review. You may want to continue the public hearing to the next meeting with the idea that you would review the draft decision and if you're satisfied with the draft decision, or you want to modify it, however you want to modify it, that you could possibly make a decision then at the next meeting."

Mr. Sewall so moved, and Mr. Findholt seconded. Carried 3/0.

Redmond offered to meet with the board to show them where alternatives would be located. Mrs. Dower said they couldn't meet all at once, or it would be considered a meeting. Redmond then offered to meet with them individually and show them where the sign where he proposes to have it will not interfere with putting snow there, because, he continues, "on the adjoining property, which is Penny's property, the other side of the same fence, that's where their snow is piled."

Ms. Redmond: "No, no, no..."

Redmond: "Yes, yes, yes..."

Ms. Redmond: "No, No...There's no snow that goes on the outside of that back fence except what you plow there from yours."

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Ms. Maxam: "And you plow it over the fence..."

Redmond: "There's a sign on the back fence, is the proposed location of the sign on the back fence?" (Garbled...) "IF YOU WOULD LISTEN...you would understand what I said was, YOU PILE SNOW EXACTLY OPPOSITE from where I'm proposing the sign will be. THATS what I said, and I would be glad to meet with any of you there, and show you these things."

Ms. Redmond: "But, that's where you plowed the snow..."

Mrs. Dower: "Matter is tabled, public hearing is continued until the next meeting..."

Discussion on date of next meeting, and availability of board and counsel on regularly scheduled date of October 23rd, the fourth Tuesday. Mrs. Dower stated that she would be out of Town on the 23rd. A tentative date of Monday, October 22nd was set, with an alternative date of October 25th, Thursday. Mr. Hill stated that the 3 members present were the 3 that constituted the board since the inception of this application, and the project could not go forward without these 3 being present. All present recognized that the date of the 22nd would be determined, tentatively, unless otherwise notified. (It has since been determined that the meeting will be held on Thursday, October 25th, 2007).

Chairman Marcheselli resumed the chair for:

MINUTES: It was recommended by legal counsel that all of the Minutes were important, and draft Minutes from June 26th be held for acceptance until the Minutes from this meeting were also completed, and reviewed.

ADJOURNMENT: On a motion by Mr. Sewall, seconded by Mr. Findholt, the meeting adjourned At 9:20 p.m.

Respectfully submitted,

Patricia M. Smith ~ Secretary